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## THE PRINCIPLES AND PRACTICE OF CONSTITUTIONAL REVISION <sup>1</sup>

ELIHU ROOT

United States Senator from New York

THERE is an interesting parallel between the present constitutional convention and the one that preceded it.

The last one ought to have occurred in 1887, twenty years after the convention of 1867. It did not please the party which happened to be in power in 1887 and for a number of years afterward to have the convention, because they could not get the arrangements just to suit them. At last, in 1892, everything was right and the convention was brought on; delegates were elected in 1893, and a convention was held in 1894. But, lo, after everything was right and the convention was determined upon, there came a revolution in the politics of the state, and the other party elected a majority of delegates and controlled the convention.

At this time it seemed to some one—I don't know to whom—that it would be a bright stroke of politics to advance the convention, and so a special election was held, and the convention was brought on by a narrow majority, composed in part, we already know through judicial decisions, of fraudulent votes. But lo, after the convention was thus determined upon a revolution occurred and the other party controls the convention.

And the lesson is that it does not pay to be too acute and adroit and cunning in American politics. The best way is to go on in a simple, direct, honest, faithful effort to help the working of our free self-government. Whoever does that will go ahead of the very smart politicians every time.

I wish to mention another parallel, or contrast, between the two conventions which I think is cause for great satisfaction.

<sup>1</sup> Address as presiding officer at the dinner meeting of the Academy of Political Science, November 19, 1914.

In September 1894, the convention of that year had substantially completed its work, and had taken a recess for a few days to enable the committee on revision to give the last careful consideration to the terms or form of the work. I went up from Albany to Saratoga, where the Republican convention was held. I found myself put upon the committee on resolutions; I attended the meeting of the committee, and some one produced a platform which had been prepared and which was handed to the chairman of the committee. The platform was read, or run through hastily, and the chairman was about to put it to a vote. I noticed that no mention was made in this platform of the work of the constitutional convention—a convention the majority of which was composed of Republicans, nominated and elected by Republican votes. We thought that the convention had done some good things; but it was not considered of sufficient consequence to mention in the resolutions of the Republican convention which met immediately after the work was completed. I made some observations upon that subject, and was very loyally seconded by a gentleman for whom I have always had the kindest feeling, the late Timothy Woodruff, and a clause was put into the platform approving the work of the convention. This year I went to Saratoga to attend the Republican convention, and there were present between twenty and thirty of the ablest leaders of opinion from all parts of the state of New York, who spent three days in discussing the question as to what position the Republican party ought to take in regard to the work of the constitutional convention. That marks a change in the public attitude towards questions of government.

And this meeting is something which twenty years ago never had a parallel. The members of that convention evolved out of their inner consciousness the provisions which seemed to them to be good for the state; and they had little help from anybody except the people who had a particular ax to grind. I don't care much whether people when they start are thinking right or wrong; I don't feel any apprehension about the people being too radical, or being too conservative. So long as the thoughtful people of the republic will take a real interest in

questions of government, will think about them and discuss them, so long we are sure to come out right.

Twenty years ago the thought and the feelings of the people of this state were asleep on fundamental questions of government. To-day the thoughts and the feelings of the people of this state are awake, and interest is keen. Consequently I feel the greatest confidence in the product—not so much in the deliberations of the convention itself, as in the force of intelligent, instructed, and mature public opinion of the state, operating upon the minds of the members of that convention.

Now let me say something practical about your work for the convention. The time is rapidly passing during which abstract discussion can be made useful. The convention will meet in the first week in April, and when that time comes it will be too late for the processes of general instruction. All the discussion that has been going on during these recent years, the discussion you are having now, must be brought into converging lines of practical suggestions—definite, certain, positive, practical suggestions, not discussions of theories of government, but helpful proposals as to what shall be written into the constitution.

The convention meets, I say, the first week in April. The time during which any suggestions can be made after the meeting begins will be very short, because we soon run into the heat of summer. There are three stages of consideration of every proposal: first, consideration in committee; next, consideration by the convention, and at the same time, the general public verdict upon the reports of committees; and then, of course, consideration by the public after the convention has done its work. But the important, vital period of consideration is consideration in committee. That has got to be done in the early part of the convention, and the committee reports have got to be made early in order that there may be adequate discussion on the floor of the convention. Any one who has ideas as to what ought to go into this new constitution, or what amendments ought to be made to the old constitution, should get to work and prepare his ideas so that they can be presented to the convention promptly in April, so as to let the

committees get to work at them. The convention will be obliged to fix an early date after which it will not receive and will not permit the introduction of new amendments. Otherwise the committees could never complete their work, and therefore the convention could never get at its work in considering committee reports. The time for you to bring to bear upon this important work the results of all your study and thought and discussion is very brief. You should lose no time in getting down to practical results.

Of course there are two quite distinct branches of work for the convention. One is the machinery of government. Our social and industrial conditions have changed vastly in twenty years. The business of government in this great state has outgrown the machinery of government. Much blame that is visited upon individuals is really due in a great measure to a defective system—a system adequate in simpler times, when the work to be done by government was quite within the experience of ordinary everyday life, and when any member of the legislature or of the executive branch could get on with it without much special study. The increase in the multiplicity and complexity of things to be done calls for a shifting of the centers of activity. When a legislative body has more business to do than it can properly consider, there is only one avenue of relief, and that is a continual increase of delegation of power. What the legislature could readily have done fifty years ago, the legislature could not half do to-day, and it must delegate the other half to someone else. That delegation of authority to subordinate officers or bodies that must exercise discretion formerly withheld from them, that must make rules and regulations upon matters formerly dealt with by statute, requires careful adjustment of governmental machinery, and we have not the machinery properly adjusted for that necessary process of government. That is in general the occasion for the practical overhauling of the machinery of our state government. And as to that, everybody who has practical knowledge about the affairs of government ought to put his mind to work to see what useful suggestions he can make; for there will be a thousand men outside of the convention with practical experience

about the operations of government and useful ideas regarding it, to one in the convention.

The other field is the field of the principles of government, a field in which our American constitutions occupy a place of their own in all the world, a place of their own in all the history of government. So far as the principles of government declared in our constitutions are right they do not change. No development of social or industrial life changes a true principle. And there are certain dangers to be considered when we turn our attention to that field of the convention's work—the reconsideration of the fundamental principles of government which are to direct, limit, control the operations of the government of the state.

In the first place, there is always the danger coming from the people who grow faint-hearted, because the path of liberty and justice is narrow and a hard one to tread. You see sometimes a young man who begins life with brilliant talents, undertakes this profession, and presently, finding it difficult, turns to another, and after a while leaves that and turns to another, and then to still another. His life is wasted. There is a little tendency of that kind in government. No great principle can be applied year after year, and generation after generation, where the people develop incompetency, and cease to grow in intelligent capacity. No principle can be applied without meeting obstacles, and being surrounded by inconveniences, and having the faint-hearted say, "Let us find some other way to work out our salvation. Oh, to abandon the hard and painful and trying effort!"

To grow in power, to grow in capacity for true liberty and true justice by holding fast to true principles, is hard. There are many who grow tired, who would find some easier way; but the easier way will but lead from the true path into some other easy way, and that into some other. Self-government, which is the basis and essence of our free republican government, is hard and discouraging. It requires courage and persistency and true patriotism to keep the grip on the handle of the plow and drive the furrow through. But wherever there is a true principle embodied in our constitution, we must stand by it and maintain it against all patent nostrums.

On the other hand, there are indications extensive and numerous of a reaction from certain extreme views, from certain enthusiasm for new devices in government. But we must remember that if reaction goes too far the pendulum will swing back the other way. All our statements of principle must be re-examined, not with faint hearts, but with a sincere purpose to ascertain whether the statement is sound and right, and whether it needs modification with reference to the new conditions in order more perfectly to express the principle.

I feel very differently about this convention from the way in which I felt twenty years ago, because it seems to me that upon this field of action dealing with the fundamental principles of our government we are performing the highest and most sacred duty that civilization ever demands from man. All the little questions of form and method may be right or wrong; we may solve them rightly or wrongly. If they are wrong they will be changed. If the law is wrong it will be changed. If it is not perfect it will be amended. But when a people undertakes to state fundamental principles of its government, it is putting to the test its right and its power to live. Millions of men in Western Europe to-day who are battling with each other, dying by the thousands, are fighting upon one side or the other of two different conceptions of national morality. Homes are desolated, children left fatherless, because two great principles of national morality have met in their death-grip. The nation which lays hold of the truth, of the true principles of liberty and justice will live. The nation that is wrong, the nation that fails to grasp the truth, will die. In our effort or attempt to make and re-make the constitutions of our beloved country we are putting to the test the very life of the country. To that task we should address ourselves with the prayer that we may be free from selfishness. That task should be performed with a sense of duty to one's country that rises to the level of religion. With the help of all the good men and women of our state we should be able to keep this convention right, upon the eternal principles by which alone our free and peaceful and just country can continue.